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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,065	12/19/2001	Ghita Lanzendorfer	Beiersdorf 758-WCG	8343

27386 7590 10/16/2002

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EXAMINER

JIANG, SHAOJIA A

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 10/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,065

Applicant(s)

LANZENDORFER ET AL.

Examiner

Shaojia A. Jiang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

This application claims priority to Germany 100 65 046.5.

Information Disclosure Statement (IDS)

Applicants' IDS submitted December 19, 2001 with the application and submitted June 6, 2002 in Paper No. 6 is acknowledged. However, Germany patents and EP patents have been crossed out as they are not appropriate for IDS, i.e., no translation provided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beerse et al. (6,294,186 PTO-892).

Beerse et al. discloses compositions therein, an oil-in-water system, comprising up to 90% water, lipid phase such as mineral oil and waxes, one or more emulsifiers which may be up to 10%, and Aristoflex AVC (ammonium acryloyldimethyltaurates/vinylpyrrolidone copolymer) in amount of 2% wt (col. 48 lines

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50-51). See also col.8 lines 24-38, col.9 lines 28-32, col.10 lines 43-67, col.12 lines 21-45, col.14 line 65 to col.15 line 4, col. 18 lines 30-34, and col. 49 line 7.

Beerse et al. does not expressly disclose a particular composition comprising the particular amounts of ingredients, e.g. 5% of Aristoflex AVC.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine the particular amounts of ingredients in the compositions, e.g. 5% of Aristoflex AVC.

One having ordinary skill in the art at the time the invention was made would have been motivated to determine the particular amounts of ingredients in the compositions, e.g. 5% of Aristoflex AVC since optimization of amounts of ingredients in a cosmetic compositions is considered well within the skill of artisan, involving merely routine skill in the art.

Thus the claimed invention as a whole is clearly prima facie obvious over the teachings of the prior art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beerse et al. (6,294,186 PTO-892) in view of Applicant's admission regarding the prior art in the specification at page 14-19.

Beerse et al. discloses compositions therein, an oil-in-water system, comprising up to 90% water, lipid phase such as mineral oil and waxes, one or more emulsifiers which may be up to 10%, and Aristoflex AVC (ammonium acryloyldimethyltaurates/vinylpyrrolidone copolymer) in amount of 2% wt (col. 48 lines 50-51). See also col.8 lines 24-38, col.9 lines 28-32, col.10 lines 43-67, col.12 lines 21-45, col.14 line 65 to col.15 line 4, col. 18 lines 30-34, and col. 49 line 7.

Beerse et al. does not expressly disclose the compositions therein further comprising one or more dyes coloring pigments.

Applicant's admission regarding the prior art in the specification at page 14-19 teaches that adding dyes coloring pigments or cosmetic colorants into a cosmetic composition is well known in the art and is considered conventional in cosmetic science.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to further comprise one or more dyes coloring pigments in the compositions.

One having ordinary skill in the art at the time the invention was made would have been motivated to further comprise one or more dyes coloring pigments in the known compositions since adding dyes coloring pigments to a cosmetic composition is well known in the art and is considered conventional in the competence level of an ordinary skilled artisan in cosmetic science.

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Thus the claimed invention as a whole is clearly prima facie obvious over the teachings of the prior art.

In view of the rejections to the pending claims set forth above, no claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jiang, whose telephone number is (703) 305-1008. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, Ph.D., can be reached on (703) 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1235.

Shaojia A. Jiang, Ph.D.
Patent Examiner, AU 1617
October 8, 2002



SREENI PADMANABHAN
PRIMARY EXAMINER

